

**Testimony by Priya Mathur  
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California Public Employees' Retirement System**

**Committee on Government Oversight and Reform  
House of Representatives  
U.S. Congress**

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Mr. Chairman, Mr. Davis and members of the Committee. Thank you for providing California Public Employees Retirement System (CalPERS) with the opportunity to testify on the high cost of biopharmaceuticals and the need to establish a safe pathway for the approval of biogenerics. I am Priya Mathur. I was elected by 400 thousand public sector members to serve on the board of CalPERS to invest their \$230 billion of retirement assets and to manage their multi-billion dollar health benefit program.

The high cost of biopharmaceutical products presents an unsustainable challenge CalPERS and to our entire health care system. At a time when our state is trying to expand health insurance coverage to more Californians, slow the rate of growth in health care costs, and make our health care system more efficient, we cannot afford the status quo.

Mr. Chairman, I commend you for convening today's hearing and for the introduction of bipartisan legislation to introduce competition into the biopharmaceutical marketplace. On behalf of CalPERS I welcome the opportunity to testify about this issue of importance to our members, to our state and to our nation. I would also like to thank the eleven cosponsors of your bill –

Representatives Emerson, Palone, Emanuel, Hirono, Stark, Kilpatrick, Conyers, Abercrombie, Wamp, Grijalva, and Pastor – for their leadership on this pressing issue.

### **CalPERS Background**

CalPERS was established by state law in 1932 to provide retirement benefits for California public sector employees. In 1962, state law authorized CalPERS to provide health benefits to their members. Our mission is to advance the financial and health security for all who participate in the System.

Today CalPERS' health program covers 1.2 million active and retired state and local government public employees and their family members. Of that total, approximately two-thirds are active members and one-third are retirees.

Notably, CalPERS represents the third largest purchaser of employee health benefits in the nation – behind the federal government and General Motors Corporation -- and is the largest purchaser of health benefits in California.

This year, CalPERS will spend almost \$5 billion on health benefits – or \$13.4 million per day. Of that amount, CalPERS -- for the first time -- will spend over \$1 billion on our members' prescription drugs.

### **Slowing the Rate of Growth in Health Care**

Recognizing that we have a fiduciary responsibility to constrain cost growth and ensure healthcare value, CalPERS has long been a leader in implementing cost-

effective programs. These initiatives include consumer-friendly managed care, aggressively negotiating favorable contracts with insurers by leveraging our pool of enrollees, state of the art hospital purchasing and quality assurance arrangements. In addition, we have instituted innovative prescription drug benefit cost-sharing designs to maximize the use of generics and therapeutically appropriate brand drugs. We have also provided incentives for the use of over-the-counter medications and mail-order, particularly for the treatment of chronic diseases.

CalPERS has actually enjoyed tremendous success in controlling prescription drug costs through the use of generics. This has been possible, thanks to the Chairman, whose efforts two decades ago led to the enactment of the “Drug Price Competition and Patent Term Restoration Act of 1984,” what we call Waxman-Hatch.

As you well know, Waxman-Hatch gave the Food and Drug Administration (FDA) the authority to provide an abbreviated approval process for those products deemed equivalent to an innovator product once a product’s patent had expired. For multi-source drugs in our self-funded PPO, which covers about a quarter of our members, our generic substitution rate is approximately 96 percent. Without generic substitution, we estimate that our costs would be about 60 percent higher – saving our enrollees and our state taxpayers hundreds of million of dollars annually.

In spite of all of our cost-containment efforts, we are experiencing double-digit increases in health care spending over time. Since 2002, CalPERS has seen an average annual increase of about 13.5 percent for our HMOs and PPOs, and a 12 percent average annual increase in our association member plans.

### **Increasing Cost of Biopharmaceuticals**

Mr. Chairman, because of the complex delivery requirements of many biopharmaceuticals, it is exceedingly difficult to break out a stand-alone spending line for these products. However, we believe that our spending on so-called “specialty drugs” is a good proxy because biotech products make up the great majority of spending in this category. CalPERS spending for these products is distressingly substantial and rising at a rate that is significantly higher than traditional pharmaceuticals.

Total spending for specialty drugs was \$83.7 million in 2006, up from 67.4 million in 2004. Spending on these prescriptions increased by 16.9 percent in 2005 – compared to a 5.4 percent increase in traditional prescription drugs. On average, spending for biotech products was at least \$55 per day – compared to traditional drugs at only \$2 per day.

### **Promise of Biogenerics – Competition and Lower Cost**

CalPERS supports a competitive health care marketplace that leads to innovation and life-saving medicines. Today, biopharmaceutical manufacturers enjoy monopoly positions. Today, unlike traditional pharmaceuticals, no competition

is created in the marketplace once a patent has expired on a brand name biopharmaceutical. Competition does not exist because the FDA has held that it does not have the authority to approve biogeneric products. CalPERS supports giving the FDA explicit authority to approve biogeneric products that are safe.

It is imperative that Congress take action this year to enact legislation to give FDA the authority to approve safe biogenerics. Today's biotech companies are benefiting long after patents expire and are profiting at the expense of all Americans. No employer, labor organization or health plan can continue to offer affordable coverage without competition in the biopharmaceutical industry. Without the ability to access less expensive comparable and interchangeable biopharmaceuticals, CalPERS ultimately will be forced to increase prescription drug co-pays or increase premiums, shifting the increasingly unaffordable costs onto the individuals who can least afford them.

Mr. Chairman, before I conclude I need to address one important issue. The opponents of this legislation – and as you point out, they are limited to the biotech industry – are claiming that those who support your legislation are ignoring the safety threat of bringing biogenerics to the marketplace. I want to be clear – the safety and health of our members comes first in any decision we make about any policy. That is why we strongly support providing FDA with full discretion to make the ultimate decision about whether and when any prescription drug product, whether it be brand or generic comes to market. Your legislation does just that.

Mr. Chairman, CalPERS is proud and honored to add our support to the growing list of workers, seniors, patient groups, businesses, health plans, health care providers, pharmacy benefit managers and countless others who support your legislation to open the door to biogeneric competition. We stand ready to work with you to complete the work you started in Waxman-Hatch by making biogenerics a safe and affordable alternative for consumers. Thank you for giving us this opportunity to share our thoughts on this life-impacting issue. I'd be happy to take any questions that you or other members of the Committee may have.